

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JEFFREY STEVEN ADKINS,

Plaintiff,

v.

Case No. 2:21-cv-718-MAP

COMMISSIONER OF SOCIAL SECURITY

Defendant.

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ORDER

Before me is Plaintiff's Unopposed Petition for Award of Attorney Fees Under the Equal Access to Justice Act (doc. 24). Plaintiff seeks payment of attorneys' fees in the amount of \$6,867.62 pursuant to the EAJA.¹ Plaintiff also requests \$402.00 in costs. On March 27, 2023, I entered an Order remanding Plaintiff's case to the Commissioner for further administrative proceedings (doc. 22); the Clerk of Court entered judgment in Plaintiff's favor on the following day (doc. 23).²

¹ Attorney Erik Berger requests fees for 44.51 hours (5.6 paralegal and 38.9 attorney) in EAJA related representation at the hourly rate of \$220.25 for work performed in 2021-2023 (doc. 24 at 3). After consultation between the parties, Plaintiff's counsel has agreed to reduce his fee for a total request of \$6,867.62 and reimbursement of the costs in the amount of \$402.00. (*Id.* at n.1).

² The plaintiff in a social security case has 30 days beyond the 60-day appeal window to apply for fees and other expenses under the EAJA, for a total of 90 days after judgment. *See* 28 U.S.C. § 2412(d)(1)(B), (d)(2)(G); Fed. R. App. P. 4(a)(1)(B); *Gates v. Barnhart*, 325 F. Supp. 2d 1342, 1343 (M.D. Fla. 2002). In this case, Plaintiff timely filed his application for fees on June 26, 2023 (doc. 24).

In *Reeves v. Astrue*, 526 F.3d 732 (11th Cir. 2008), the Eleventh Circuit held that an EAJA fee award is awarded to the “prevailing party,” not to counsel. However, in this case, Plaintiff has agreed to assign the EAJA award to his counsel (doc. 24-2). The Commissioner does not oppose Plaintiff’s motion. Therefore, by virtue of the fee assignment and Defendant’s lack of opposition, the award is payable to Plaintiff’s counsel.

Accordingly, it is ORDERED:

1. Plaintiff’s Unopposed Petition for Award of Attorney Fees pursuant to the Equal Access to Justice Act (doc. 24) is GRANTED; and
2. Plaintiff is awarded attorney’s fees in the amount of \$6,867.62 to be paid directly to Plaintiff’s counsel, if Plaintiff does not owe a debt to the Government.³ Plaintiff is also awarded costs in the amount of \$402.00.

DONE AND ORDERED at Tampa, Florida on July 3, 2023.



MARK A. PIZZO
UNITED STATES MAGISTRATE JUDGE

³ The Commissioner will determine whether Plaintiff owes a debt to the government. If he does, fees shall be made payable to Plaintiff and delivered to Plaintiff’s counsel to satisfy the debt.